

BEATRICE SMITH and DANISHA SMITH,

Plaintiffs,

-against-

**STIPULATION OF
SETTLEMENT AND ORDER
OF DISMISSAL**

10 CV 4461 (LTS)

THE CITY OF NEW YORK, SERGEANT MICHAEL
WHITE, POLICE OFFICER FELIX ORTIZ and POLICE
OFFICER JOHN DOE 1-15, LIEUTENANT PATRICK
RYAN, CAPTAIN PATRICK CORTWRIGHT,
DETECTIVE ADRIAN CHATMAN, Sh. #6828,
DETECTIVE RONALD REYNOLDS, Sh. #5746,
DETECTIVE JASON COHEN, Sh. #1750, DETECTIVE
WILLIAM JOHNSON, Sh. #4104,

Defendants.

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WHEREAS, plaintiffs commenced this action by filing a complaint on or about June 4, 2010, and an amended complaint on or about December 13, 2010, alleging that the defendants violated plaintiff's federal civil and state common law rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed against defendants, with prejudice, and without costs, expenses, or attorneys' fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiffs as follows: plaintiff Beatrice Smith the sum of Fifteen Thousand Dollars (\$15,000), in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees; and plaintiff Danisha Smith the sum of Fifteen Thousand Dollars (\$15,000), in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees. In consideration for the payment of this sum, plaintiffs agree to dismissal of all the claims against the defendants City of New York, Michael White, Felix Ortiz, Patrick Ryan, Patrick Cortwright, Adrian Chatman, Ronald Reynolds, Jason Cohen and William Johnson and to release the defendants and any present or former employees and agents of the City of New York or any agency thereof, from any and all liability, claims, or rights of action which were or could have been alleged in this action, including claims for costs, expenses, and attorneys' fees.

3. Plaintiffs shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph 2 above and an Affidavit of Status of Liens. If Medicare has provided payment and/or benefits for any injury or condition that is the subject of this lawsuit, prior to tendering the requisite documents to effect this settlement, plaintiff shall have notified Medicare and shall submit with the settlement documents a Medicare final demand letter for conditional payments. A Medicare Set-Aside Trust may also be required if future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. §1395y(b) and 42 C.F.R. §§411.22 through 411.26.

4. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

6. Plaintiffs agree to hold harmless the City of New York and all defendants regarding any liens or past and/or future Medicare payments, presently known or unknown, in connection with this matter. If conditional and/or future anticipated Medicare payments have not been satisfied, defendants reserve the right to issue a multiparty settlement check, naming Medicare as a payee or to issue a check to Medicare directly based upon Medicare's final demand letter.

7. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
April 8, 2011

Michael Colihan, Esq.
Attorney for Plaintiffs
44 Court Street, Suite 911
Brooklyn, New York 11201

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street
New York, New York 10007

By: _____

MICHAEL COLIHAN
Attorney for Plaintiffs

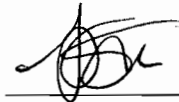
By: _____

(212) 788-8343

BAREE N. FETT
Assistant Corporation Counsel

Dated: New York, New York
~~April 13~~, 2011

SO ORDERED:

 4/11/11

HON. LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE